

REMARKS

Applicant respectfully requests reconsideration and allowance of claims 2-5, 8-10, and 17-26, which are pending in the above-identified application. Claims 2-5, 8-10, and 17-19 stand rejected. Claims 4 and 5 stand withdrawn. Claims 1, 6-7, 11-16, and 19 stand cancelled. Applicant has added new claims 20-26, and has amended claim 17 herein. No new matter is added by the amendments. Support for the amendments may be found in at least FIGS. 1-7 and 15, and page 4, line 1 to page 7, line 27 of the specification as originally filed. In view of the following discussion, Applicant submits that all pending claims are in condition for allowance.

Claim Rejections under 35 U.S.C. §103(a):

At pages 2-4 of the Office Action, the Examiner has rejected claims 2, 3, 8, 9, and 17-19 under 35 U.S.C. §103(a) as being unpatentable over Mazda (WO 94/04100) in view of Cohen et al. (U.S. Pat. No. 6,454,806, hereinafter “Cohen”); and has rejected claim 10 under 35 U.S.C. §103(a) as being unpatentable over Mazda in view of Cohen in further view of Khandkar et al. (U.S. Pat. Pub. No. 2004/133281, hereinafter “Khandkar”). In view of the amendments herein, Applicant respectfully submits that the Examiner’s claim rejections have been overcome.

Amended independent claim 17 recites, in part, that the first sides of each of the base components comprise a raised portion comprising a pair of concentric raised circular portions stacked, one atop the other, each of the raised portions having angled sidewalls that taper inwardly in the direction towards the base component to cooperate with bone in-growth, as the vertebra-engaging adaptation.

By way of background, at least one embodiment of claim 17 may have a pair of raised portions 22, 24, where raised portion 22 is stacked atop raised portion 24. Raised portions 22, 24 may each include angled sidewalls 26, 28 that taper inwardly toward the direction of the plate section 30. Such structure provides the advantage of enabling bone growth from the surrounding bone tissue 32 to anchor or secure a base component 10, 34 to a vertebra while in use. (See at least FIGS. 1-7 and 15; and page 5, lines 1-17 of the specification.)

Applicant respectfully acknowledges the Examiner's concession at page 2 of the Office Action that Mazda does not disclose or suggest a raised portion with angled sidewalls that taper in the direction towards the base component. Consequently, Mazda does not disclose or suggest a pair of raised portions, one is atop the other, each having angled sidewalls as claimed.

Applicant submits that Cohen and Khandkar, alone or in combination, do not disclose or suggest a pair of raised portions, one atop the other, each having angled sidewalls that taper inwardly in the direction towards the base component as recited in claim 17 of the instant application. Cohen merely discloses a raised structure from an upper or lower plate member 100, 101 (FIG. 16), and the raised structure of the Cohen device lacks a pair of raised portions, one atop the other, each having angled sidewalls that taper inwardly in the direction towards the base component.

Further, Khandkar merely discloses teeth 16, 36, but the Khandkar device lacks a pair of raised portions as claimed.

In view of the above, Cohen and Khandkar, alone or in combination, do not cure the aforementioned deficiencies of Mazda, and the subject combinations cannot result in claim 17. Therefore, claim 17 is patentable. The subject dependent claims depend from claim 17, recite additional patentable features, and are, therefore, likewise patentable. Accordingly, Applicant respectfully requests that the Examiner's §103 claim rejections be withdrawn.

New Claims 20-26:

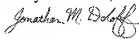
As established above, claim 17 is patentable over the cited prior art. As claims 20-26 depend from claim 17, and recite additional patentable features, the subject dependent claims are, therefore, likewise patentable.

Conclusion:

In view of the foregoing, Applicant submits that the instant claims are in condition for allowance. Early and favorable action is earnestly solicited. The fees for the petition and RCE are included herewith. In the event there are any fees due and owing in connection with this matter, please charge same to our Deposit Account No. 11-0223.

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Respectfully submitted,

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